

IN THE HIGH COURT OF GUJARAT AT AHMEDABAD

SPECIAL CIVIL APPLICATION No 7961 of 1990

For Approval and Signature:

Hon'ble MR.JUSTICE S.K.KESHOTE

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1. Whether Reporters of Local Papers may be allowed : NO
to see the judgements?
 2. To be referred to the Reporter or not? : NO
 3. Whether Their Lordships wish to see the fair copy : NO
of the judgement?
 4. Whether this case involves a substantial question : NO
of law as to the interpretation of the Constitution
of India, 1950 of any Order made thereunder?
 5. Whether it is to be circulated to the Civil Judge? : NO

SHANTILAL P PUROHIT

Versus

DY COLLECTOR

Appearance:

MR PUSHPAK DATT VYAS for MR BS PATEL for Petitioners
None present for Resp. Nos. 1, 5 and 6
MR MA BUKHARI AGP FOR Resp. No.2
MR MC SHAH for Respondent No. 3 & 4

CORAM : MR.JUSTICE S.K.KESHOTE

Date of decision: 07/07/2000

ORAL JUDGEMENT

#. The petitioners, all three in number, by this
petition under Article 226 of the Constitution of India

praying for quashing and setting aside the order of the respondent No.1 at Annexure-A dated 8.1.90 and the order of respondent No.2 Annexure-B dated 23.4.90. The brief facts of the case are that the petitioners purchased the land in dispute from the father of the respondent Nos. 3 and 4 by an agreement dated 5.1.65. The learned counsel for the petitioner on being put by the court admitted that this agreement to sale is an unregistered document. The petitioner has executed agreement to sell in favour of the respondent Nos. 5 and 6 and also passed over the possession of the land to this respondent. The land was mutated in the revenue records in the name of the petitioner, on the basis of this agreement to sell in the year 1981 but it is not in dispute that in the year 1984 this entry has been cancelled on the objection of respondent Nos. 3 and 4 by the revenue officer concerned and that order has also been confirmed in the appeal by the Collector in the year 1989. The petitioner has admitted in the Special Civil Application and reference may have to para 3 thereof that this entry made in the revenue record in their favour has been cancelled on the grounds; (i) the petitioners were not agriculturists on the date of the execution of the agreement; (ii) that agreement was got up one. The aforesaid grounds given for the cancellation of the entry attained finality as the petitioner has not challenged the order of Collector passed in the year 1989. The respondent Nos. 3 and 4 taken up proceedings by filing application for the cancellation of the agreement which was there in favour of the petitioner. This application was accepted and the agreement was declared to be illegal as being in violation of provisions of Bombay Fragmentation Act, 1947. The matter was taken up before the appellate authority but challenge has also been dismissed. Hence this Special Civil Application.

#. The learned counsel for the respondent Nos. 3 and 4 contended that as per the petitioner's own case this land has been sold by them to the respondent Nos. 5 and 6 and as such they have no right, title or interest whatsoever therein and as a result of which they have no locus standi to file this special Civil Application. It has next been contended that the respondent nos. 5 and 6 have filed revision application before the State Government but that too has been dismissed. The respondent Nos. 5 and 6 had not come up before this court. So, the orders passed by the appellate authority and the revisional authority confirming the order of the original authority attained finality. The petitioner has not challenged the order passed by the original authority in the appeal. He has no locus standi to file this

Special Civil Application. The facts stated and grounds raised by the learned counsel for the respondent Nos. 3 and 4 are not controverted by the learned counsel for the petitioner. Otherwise also, I find from the document Annexures A and B that in the appeal the petitioners were not appellants. The appeal has been filed by the respondent nos. 3 and 4 and by one Purshottambhai Babarbhahi Patel. the petitioners were the respondents in the appeal. From the memo of the revision application, I find that the respondent Nos. 5 and 6 were the revisionist before the State Government. On the basis of this document it is clear that the petitioner has not challenged the order of the Deputy Collector, Baroda passed against them in the appeal. The revision has been filed by the respondent Nos. 5 and 6 and not by the petitioners. It is also an admitted position that the petitioner sold this land to respondent Nos. 5 and 6. The respondent Nos. 5 and 6 have not come up before this court in this Special Civil Application. I find sufficient merits in the contentions of the learned counsel for the respondent Nos. 3 and 4 that the petitioner has no locus standi whatsoever to file this writ petition as he has divested of his right, title and interest therein by selling of this land to the respondents Nos. 5 and 6.

In the result, the Special Civil Application fails and the same is dismissed. Rule is discharged. Interim relief, if any, granted stands vacated. The petitioner is directed to pay Rs.500/= as costs of this petition to the respondent Nos. 1 and Rs.1,000/= to the respondent Nos. 3 and 4.

(S.K.Keshote, J.)

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